

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0230

HOUSE BILL NO. 1024

Introduced by: The Committee on Education at the request of the Department of Education
and Cultural Affairs

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to statewide open
2 enrollment of students in public school districts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-28-42 be amended to read as follows:

5 13-28-42. The resident district is responsible for the provision of a free appropriate public
6 education for students in need of special education or special education and related services. ~~A~~
7 Notwithstanding the provisions of § 13-28-44, a request to transfer a student in need of special
8 education or special education and related services may be granted only if, through the placement
9 committee process, the resident and nonresident districts determine that the nonresident district
10 can provide an appropriate instructional program and facilities to meet the student's needs. The
11 resident district shall reimburse the nonresident district actual costs incurred in providing an
12 appropriate special education for a student in need of special education and related services.
13 Notwithstanding the provisions of § 13-28-45, the placement committee, including
14 representatives of the resident and nonresident districts, shall determine whether a student in
15 need of special education requires transportation as a related service. If so, the resident district

1 shall provide or ensure the provision of transportation.

2 If a parent or guardian of a student in need of special education or special education and
3 related services wishes to transfer the student back to the resident district, the request shall be
4 considered by the placement committee. The committee must include representatives of the
5 resident and nonresident districts.

6 Section 2. That § 13-28-43 be amended to read as follows:

7 13-28-43. A student's parent or legal guardian who wishes to enroll the student, or an
8 emancipated student who wishes to enroll, under the provisions of §§ 13-28-40 to 13-28-47,
9 inclusive, in a South Dakota school district other than the resident district or in a school within
10 the resident district other than the school to which the student has been assigned shall, not later
11 than February first of the school year preceding the year of enrollment, apply ~~to the affected~~
12 ~~school boards~~, on ~~triplicate~~ forms provided by the Department of Education and Cultural Affairs;
13 ~~to enroll the student in a district other than the resident district or to transfer within the district.~~

14 By March first, the school board of the district in which the student desires to enroll shall
15 approve or disapprove the application. The board shall notify the applicant and the resident
16 board, if applicable, of its decision within five days of the decision. The district in which the
17 student desires to enroll shall review the applications in the order received.

18 However, intradistrict transfer applications may be accepted and acted upon at any time at
19 the board's discretion if the policies on which the transfer decisions are based are consistent with
20 the other requirements of §§ 13-28-40 to 13-28-47, inclusive.

21 An application may be withdrawn by the applicant any time before March first upon
22 notification of ~~all affected school boards~~ the district to which the student applied. Once approved
23 by the district in which the student wishes to enroll, the approved application serves as the
24 applicant's notice of intent to enroll in the nonresident district or desired school during the next
25 school year and obligates the student to attend school in the nonresident district or desired

1 school during the next school year, unless the affected school board or boards agree in writing
2 to allow the student to transfer back to the resident district or assigned school, or unless the
3 parents, guardians, or emancipated student change residence to another district.

4 If a student's parents, or an emancipated student, move from a resident district into another
5 district after February first, the parents or emancipated student may apply for enrollment in a
6 nonresident district or in a nonassigned school under provisions of §§ 13-28-40 to 13-28-47,
7 inclusive. In such a case, the school boards of both the new resident district and the nonresident
8 district shall waive the application and approval dates outlined in §§ 13-28-40 to 13-28-47,
9 inclusive, and the affected board shall review the application in a timely manner as outlined
10 above. The applicant and the resident board shall be informed of the board's decision within five
11 days of the board's action on the application. Once enrolled in a nonresident district or
12 nonassigned school, the student may remain enrolled and is not required to resubmit annual
13 applications.

14 Section 3. That § 13-28-45 be amended to read as follows:

15 13-28-45. The parent or guardian of a student who has been accepted for transfer is
16 responsible for transporting the student to school in the receiving district without reimbursement.
17 Either the district of residence or the receiving district may provide transportation to students
18 approved for transfer. The receiving district may charge a reasonable fee if the student elects to
19 use the transportation services offered by the receiving district.